

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

IMARI ASKARI MUJIHAD ISLAM	§	
VS.	§	CIVIL ACTION NO. 9:05cv203
DIRECTOR, TDCJ-CID	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge Judith K. Guthrie. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition of this case.

Petitioner filed objections to the Report. Petitioner contends that the record does not show that his attorney filed a motion to suppress. The records indicate that the state court held a suppression hearing in which both Petitioner's attorney and co-defendant Eskridge's attorney participated. At that hearing, Petitioner's attorney tried to show that the evidence seized as a result of the search on the bus should not be admissible. He specifically tried to show that Petitioner's consent was involuntary.

This Court made a *de novo* review of Petitioner's objections and determined that they lack merit. This Court finds that the Magistrate Judge's findings and conclusions are correct, and adopts them as the Court's findings and conclusions. The Court therefore

ORDERS, ADJUDGES, and DECREES that Petitioner's insufficiency of evidence claims based on the theory that any evidence from which the jury reasonably could connect him to the cocaine was based on the hearsay testimony of Officer Cruse and denial of the right to confront witnesses are **DISMISSED WITHOUT PREJUDICE** as unexhausted and that Petitioner's

remaining claims are **DISMISSED WITH PREJUDICE**;

ORDERS that Petitioner is **DENIED** a certificate of appealability; and

ORDERS that all motions not previously ruled on are denied.

So **ORDERED** and **SIGNED** this **13** day of **April, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge